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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/828,619 | 04/22/2004 | Timothy Duffield | DUFFIELD-I | 5841 |
| 32132 | 7590 | 01/07/2005 | EXAMINER | |
| LAMORTE & ASSOCIATES P.C. P.O. BOX 434 YARDLEY, PA 19067 | | | COURSON, TANIA C | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2859 | |

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,619

Applicant(s)

DUFFIELD, TIMOTHY

Examiner

Tania C. Courson

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>22APR04</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Stimpson (US 856,820).

Stimpson disclose in Figures 6-7, a hinged measuring instrument comprising:

With respect to claims 1-2, 5:

- a) a straight long arm (Fig. 7, D) having a first end and a second end (Fig. D), wherein said long arm is segmented into a plurality of sections between said first end and said second end that include at least a first section and a second section (column 2, lines 39-44), a straight short arm (Fig. 7, E), a first hinged connection that connects said first end of said long arm to said short arm (Fig. 6, hinge 13) and a second hinged connection that connects said first section of said long arm to said second section (column 2, lines 39-44);
- b) wherein said first hinged connection enables said short arm and said long arm to be selectively positioned between perpendicular configuration (Fig. 6) and a parallel stacked configuration (Fig. 7);

- c) wherein said second hinged connection enables said first section and said second section of said long arm to be selectively positioned between a continuous linear configuration and a parallel stacked configuration (column 2, lines 39-44).

With respect to claim 11:

- a) a long arm (Fig. 7, D) having two sections jointed together by a hinged joint (column 2, lines 39-44), wherein said two sections can be selectively rotated about said hinged joint between a linear configuration (Fig. 6) and a parallel configuration (Fig. 7), a short arm (Fig. 7, E) coupled to one end of said long arm with a second hinged joint (Fig. 6, hinge 13), wherein said short arm can be selectively rotated about said second hinged joint between an open configuration (Fig. 6), where said short arm is perpendicular said long arm (Fig. 6), and a folded configuration (Fig. 7), where said short arm lay parallel atop said long arm (Fig. 7).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 3-4, 6-10 and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpson in view of Evans (US 3,792,511), Giroux (US 4,203,227) and Lee (US D333,991).

Stimpson discloses a hinged measuring instrument, as stated above in paragraph 2.

Stimpson does not disclose including magnet connectors coupled to arms that magnetically interconnect said arms, including magnet connectors coupled to a first section and a second section, wherein at least some of said magnets are disposed on said sections, including at least one leveling bubble disposed within an arm, wherein an arm has a length of at least forty-eight inches.

Evans teaches a magnetic linear device that consists of including magnet connectors coupled to arms that magnetically interconnect said arms (32& 34). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hinged measuring instrument of Stimpson, so as include magnet connectors coupled to arms, as taught by Evans, in order to provide a secure attachment of one arm to another.

Giroux teaches a magnetic straight device that consists of including magnet connectors coupled to a first section and a second section (31 & 32), wherein at least some of said magnets are disposed on said sections (Fig. 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hinged measuring instrument of Stimpson, so as include magnet connectors coupled to sections of the arm, as taught by Giroux, in order to provide a secure attachment of one section to another.

Lee teaches a ruler device and level that consists of including at least one leveling bubble disposed within an arm (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hinged measuring instrument of Stimpson, so as include a leveling bubble, as taught by Lee, in order to enhance the leveling capability of the device.

Regarding the length of the arm: Stimpson discloses a hinged measuring instrument having arms having lengths but does not disclose a particular value for this parameter. However, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to provide a an arm having a length of at least forty-eight inches, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the “optimum range” involves only routine skill in the art. *In re Aller*, 105 USPQ 233. Therefore, one skilled in the art would change the range of the arm in order to suit the needs of the user of the device.

5. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpson in view of Giroux.

Stimpson discloses a hinged measuring instrument including the following:

- a) a plurality of straight sections (column 2, lines 39-44) that are interconnected by hinged connections (Fig. 6, hinge 13), wherein said straight sections can be configured into an open configuration (Fig. 6), having a long arm and a short

arm arranged at a perpendicular (Fig. 6), and a folded configuration (Fig. 7), where all of said straight sections are stacked atop each other (Fig. 7).

Stimpson does not disclose magnetic connectors disposed on straight sections that interconnect said straight sections when said straight sections are in said open configuration and said folded configuration.

Giroux teaches a magnetic straight device that consists of magnetic connectors disposed on straight sections that interconnect said straight sections when said straight sections are in said open configuration and said folded configuration (31 & 32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hinged measuring instrument of Stimpson, so as include magnet connectors coupled to sections of the arm, as taught by Giroux, in order to provide a secure attachment of one section to another.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpson and Giroux, as applied to claims 17-18 as stated above, and further in view of Lee.

Stimpson and Giroux disclose a hinged measuring instrument as stated above in paragraph 5.

They do not disclose including at least one leveling bubble disposed with an arm.

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Lee teaches a ruler device and level that consists of including at least one leveling bubble disposed within an arm (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the hinged measuring instrument of Stimpson, so as include a leveling bubble, as taught by Lee, in order to enhance the leveling capability of the device.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a measuring device:

Libit (US 4,987,685)

Wilson (US 4,580,352)

Fenton (US 3,308,543)

Spear, Jr. (US 2,724,184)

Nicholson (US 1,979,567)

Schauer et al (US 1,178,156)

Lutz (US 396,099)

Moore (US 134,919)

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 8:00AM to 4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DIEGO F.F. GUTIERREZ
SUPERVISORY PATENT EXAMINER
GROUP ART UNIT 2859

TCC
January 5, 2005